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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Applicant: Toyoshima) Art Unit: 2687
Serial No.: 09/974,724)
Filed: October 9, 2001) Examiner: Bhattacharya
For: WIRELESS MODEM MODULE SERVER SYSTEM) 50P4257.04
) October 22, 2006
) 750 B STREET, Suite 3120
) San Diego, CA 92101
)

SUPPLEMENTAL APPEAL BRIEF

Commissioner of Patents and Trademarks

Dear Sir:

This brief responds to the attempt to reopen prosecution dated September 25, 2006. The appeal is reinstated.

Table of Contents

<u>Section</u>	<u>Title</u>	<u>Page</u>
(1)	Real Party in Interest.....	2
(2)	Related Appeals/Interferences.....	2
(3)	Status of Claims.....	2
(4)	Status of Amendments.....	2
(5)	Concise Explanation of Subject Matter in Each Independent Claim.	2
(6)	Grounds of Rejection to be Reviewed.....	3
(7)	Argument.....	3
App.A Appealed Claims		
App.B Evidence Appendix		
App.C Related Proceedings Appendix		

CASE NO.: 50P4257.04
Serial No.: 09/974,724
October 22, 2006
Page 2

PATENT
Filed: October 9, 2001

(1) Real Party in Interest

The real parties in interest are Sony Corp. and Sony Electronics, Inc.

(2) Related Appeals/Interferences

Appeals have been filed in related application serial nos. 09/972,183 and 09/972,781.

(3) Status of Claims

Claims 1-3, 5-10, and 30 are pending and twice rejected, and the remaining claims have been canceled.

(4) Status of Amendments

No amendments are outstanding.

(5) Concise Explanation of Subject Matter in Each Independent Claim, with Page and Figure Nos.

As an initial matter, it is noted that according to the Patent Office, the concise explanations under this section are for Board convenience, and do not supersede what the claims actually state, 69 Fed. Reg. 155 (August 2004), see page 49976. Accordingly, nothing in this Section should be construed as an estoppel that limits the actual claim language.

Claim 1 sets forth an apparatus for managing data for a wireless device (e.g., host unit 210, figure 3, page 6, lines 20-30) that includes a first memory for storing received data of a wireless device and a second memory for storing a network operational file (e.g., memories 160, figure 2, page 5, line 18). The

1168-106.AP2

CASE NO.: 50P4257.04
Serial No.: 09/974,724
October 22, 2006
Page 3

PATENT
Filed: October 9, 2001

operational file includes instructions for selecting a destination using a wireless module (e.g., device 100, figures 2 and 3, pages 5 and 6) of the wireless device. Instruction means are provided for operating the network operational file for sending the received data using the wireless module to the selected destination (bottom of page 6 to page 7, line 3). The instruction means sends the received data via a wireless path to an email address associated with the selected destination, page 8, first full paragraph.

Claim 30 sets forth a digital camera system including a digital camera (e.g., one implementation of the host unit 210, page 7, lines 11-21) and a wireless transceiver (100, id.) coupled to the camera. A memory (id.) is provided for storing digital photographs from the camera. Data is automatically sent using the wireless transmitter to a remote location via a network router when an amount of data stored in the memory reaches a threshold, page 7, lines 22-27.

(6) Grounds of Rejection to be Reviewed on Appeal

(a) Claims 1-3 and 5-10 have been rejected under 35 U.S.C. §102 as being anticipated by Arai et al., USPN 6,642,959.

(b) Claim 30 has been rejected under 35 U.S.C. §103 as being obvious over Arai et al. in view of Fukuoka, USPN 5,754,227.

(7) Argument

Having had its explanations of patentability fall on deaf ears, Appellant filed a first appeal in June 2005. This got someone to listen, belatedly, but not to allow the application. Instead, prosecution was reopened on grounds so shaky that when Appellant responded by filing a second appeal in August 2005 the

1108-106.AP2

CASE NO.: 50P4257.04
Serial No.: 09/974,724
October 22, 2006
Page 4

PATENT
Filed: October 9, 2001

examiner immediately conceded - but instead of allowing the application, reopened yet again. The unacceptability of churning prosecution in this manner could be offset were better references being employed - but once again, this is not the case. Hence, Appellant hereby makes this third attempt to remove the case to the Board, wondering how many briefs and how much money it will take before the Patent Office will permit supervisory review of this case, something to which patent applicants are supposed to have a right.

a. **First Ground of Rejection**

i. **Independent Claim 1**

The error in the rejection is easy to see. While Claim 1 requires sending data using a wireless module (of, e.g., a camera) to a destination via a wireless path *to* an email address associated with the destination, Arai et al. downloads pictures and email addressed from a camera using an IR link to a PC that itself is not associated with the relied-upon email address. Instead, in Arai et al. the PC forwards the pictures on to the associated email addresses. The below diagram illustrates:

Claim 1: Camera with wireless module ----> direct to email address of destination

Arai et al.: Camera with IR transmitter ---> to non-email IR receiver of PC --> to email address

The entire point of Arai et al. is to provide an easy and reliable IR link from camera to computer, so that the computer can undertake the "heavy lifting" of forwarding pictures on the email addresses entered into the camera by the photographer. Thus, Arai et al. does not teach or suggest an operational file *in the camera itself* that has instruction means *within the camera* for sending the received data via a wireless path

1168-106.AP2

CASE NO.: 50P4257.04
Serial No.: 09/974,724
October 22, 2006
Page 5

PATENT
Filed: October 9, 2001

to any email address, much less to the email associated with the selected destination (the PC). The IR link used in Arai et al. works completely independently of email addresses. That the PC then uses the email address to forward the picture is irrelevant, because that is not what Claim 1 requires.

Accordingly, it is incorrect that the relied-upon wireless module of Arai et al. (the IR transmitter 38 of the camera) sends the data to an email address of the relied-upon destination (the PC 2). Instead, the relied-upon wireless IR transmitter of the camera in Arai et al. merely downloads pictures and email addresses via an email-independent IR link to an IR receiver 45 of the PC 2. As clearly taught in col. 13, line 60, this is all the relied-upon camera itself does in terms of emails - it never actually sends anything to an email address, it just transfers email addresses to the PC. As further taught at col. 13, lines 62-64, it is the PC 2 of Arai et al. that forwards photos on to email addresses. Since Arai et al. fails to teach or suggest every element of Claim 1, the rejection should be reversed.

ii. Dependent Claim 5

The rejection alleges that Arai et al., col. 1, line 66-col. 2, line 8 teaches sending received data in real time. It teaches no such thing. Instead, from the logic of Figure 10 (showing the process for transferring data from the camera to the PC), at S40 the user is first asked whether he or she wishes to transfer additional data prior to actual transmission.

b. Second Ground of Rejection

For reasons set forth above, the allegation is incorrect that the relied-upon IR transmitter 38 of Arai et al.'s camera uses a network router. Manifestly, it does not, using instead a simple, direct IR link to the

CASE NO.: 50P4257.04
Serial No.: 09/974,724
October 22, 2006
Page 6

PATENT
Filed: October 9, 2001

PC. Thus, Arai et al. fails to teach or suggest sending data, much less automatically, using the relied-upon IR transmitter 38 to a remote location via a network router. Accordingly, the rejection is overcome.

Additionally, combining Fukuoka with Arai et al. would not reach Claim 30. More specifically, it is alleged that Fukuoka et al. teaches in its abstract and col. 1, line 65 - col. 2, line 7 "sending data externally" when data in memory reaches a threshold, when in fact these portions of Fukuoka teach no such thing. The abstract teaches that an external computer can receive information from the camera (via a removable I/O card) including remaining memory capacity and can command the camera to do various things, none of which is said to be "download memory data" much less in response to reported memory capacity. Col. 1, line 65 - col. 2, line 7 add nothing more to this teaching. The closest Fukuoka comes to discussing "fullness" of memory is at uncited col. 8, lines 55-67, in which Fukuoka teaches that *audio* data is written to the I/O card 16 when the FIFO reaches a predetermined amount.

Accordingly, combining Fukuoka with Arai et al. in accordance with what they teach would result in sending photos and associated emails to a PC using a non-email IR link as taught in Arai et al., and downloading audio onto a removable I/O card as taught in Fukuoka for later transfer of the card into a PC - but this is not what is required by Claim 30, which instead requires the automatic *wireless* transmission of data using a wireless transmitter *via a network router* when an amount of data stored in memory reaches a threshold. The rejection of Claim 30 should be reversed.

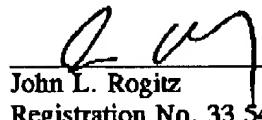
FROM ROGITZ 619 338 8078

(SUN) OCT 22 2006 10:17/ST. 10:14/No. 6833031832 P 7

CASE NO.: 50P4257.04
Serial No.: 09/974,724
October 22, 2006
Page 7

PATENT
Filed: October 9, 2001

Respectfully submitted,


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1168-105.AP2

CASE NO.: 50P4257.04
Serial No.: 09/974,724
October 22, 2006
Page 8

PATENT
Filed: October 9, 2001

APPENDIX A - APPEALED CLAIMS

1. An apparatus for managing data for a wireless device, comprising:
 - a first memory for storing received data of a wireless device;
 - a second memory for storing a network operational file, said operational file including instructions for selecting a destination using a wireless module of said wireless device, and instruction means for operating the network operational file for sending the received data using the wireless module to the selected destination, wherein the instruction means sends the received data via a wireless path to an email address associated with the selected destination.
2. The apparatus of Claim 1, wherein the first and second memories are located on the wireless module.
3. The apparatus of Claim 1, wherein the network operational file can be configured for the wireless device and the selected destination.
5. The apparatus of Claim 1, wherein the instruction means can send the received data in real time to a selected destination.
6. The apparatus of Claim 1, wherein a host can send data via the wireless module to the wireless device.

1168-106.API

CASE NO.: 50P4257.04
Serial No.: 09/974,724
October 22, 2006
Page 9

PATENT
Filed: October 9, 2001

- 7 . The apparatus of Claim 6, wherein the host can send data in real time via the wireless module to the wireless device.
8. The apparatus of Claim 1, wherein the wireless device is a digital camera, PDA, laptop, MP3 player, or a wireless flash memory device.
9. The apparatus of Claim 1, wherein the wireless device is connectable to an ISDN, Cellular or DSP network.
10. The apparatus of Claim 1, wherein the wireless module is integrated into the wireless device.
30. A digital camera system, comprising:
 - a digital camera;
 - a wireless transceiver coupled to the camera; and
 - a memory for storing digital photographs from the camera, data being automatically sent using the wireless transmitter to a remote location via a network router when an amount of data stored in the memory reaches a threshold.

CASE NO.: 50P4257.04
Serial No.: 09/974,724
October 22, 2006
Page 10

PATENT
Filed: October 9, 2001

APPENDIX B - EVIDENCE

None (this sheet made necessary by 69 Fed. Reg. 155 (August 2004), page 49978.)

1168-106.API

CASE NO.: 50P4257.04
Serial No.: 09/974,724
October 22, 2006
Page 11

PATENT
Filed: October 9, 2001

APPENDIX C - RELATED PROCEEDINGS

None (this sheet made necessary by 69 Fed. Reg. 155 (August 2004), page 49978.)

1168-106.API